

87th Legislative Session – 2012

Committee: Senate Health and Human Services

Monday, February 06, 2012

P - Present  
E - Excused  
A - Absent

Roll Call

P Bradford  
P Holien  
P Krebs  
P Rampelberg  
P Schlekeway  
P Kraus, Vice-Chair  
P Hunhoff (Jean), Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Jean Hunhoff, Chair.

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 1, 2012

Moved by: Krebs  
Second by: Rampelberg  
Action: Prevailed by voice vote.

SB 176: establish a program to assist rural health care facilities in recruiting certain health care professionals and to repeal certain provisions regarding recruitment incentive payments for health care professionals.

Presented by: Doneen Hollingsworth, Department of Health (Handouts: #1)  
Proponents: Dennis Duncan, SD Health Care Association/Trans Canada  
Rebekah Craddock, SD Association of Healthcare Organizations

MOTION: DO PASS SB 176

Moved by: Kraus  
Second by: Rampelberg

Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Bradford, Holien, Krebs, Rampelberg, Schlekeway, Kraus, Hunhoff (Jean)

SB 177: establish a program to assist rural communities to recruit certain health care professionals and to repeal certain provisions regarding the physician and the dentist tuition reimbursement programs.

Presented by: Doneen Hollingsworth, Department of Health (Handouts: #2)

Proponents: Paul Knecht, SD Dental Association

Rebekah Craddock, SD Association of Healthcare Organizations

Mark East, SD State Medical Association

MOTION: AMEND SB 177

177ja

On page 2, line 15, of the printed bill, after "general" insert "or pediatric".

Moved by: Kraus

Second by: Holien

Action: Prevailed by voice vote.

MOTION: DO PASS SB 177 AS AMENDED

Moved by: Schlekeway

Second by: Krebs

Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Bradford, Holien, Krebs, Rampelberg, Schlekeway, Kraus, Hunhoff (Jean)

MOTION: AMEND TITLE OF SB 177

177jta

On page 1, line 2, of the printed bill, after "physician" insert ", the midlevel,".

Moved by: Krebs

Second by: Holien

Action: Prevailed by voice vote.

SB74 CONTINUED FROM WEDNESDAY, FEBRUARY 1, 2012

SB 74: require the direct billing of anatomic pathology services.

Proponents: Warren Redmond, Self, Aberdeen  
Opponents: Matthew Witte, Self, Sioux Falls (teleconference) (Handouts: #3)  
Mike Gillett, Self, Sioux Falls (teleconference) (Handouts: #4)  
Joseph Wyatt, Self, Pierre (Handouts: #5, #6, #7, #8)  
Jeremiah Murphy, SD Association of Clinical Urologists

MOTION: DO PASS SB 74

Moved by: Kraus  
Second by: Bradford  
Action: Withdrawn.

MOTION: AMEND SB 74

74ja

On page 3, line 6, of the printed bill, delete "in instances whenever" and insert "when".

On page 3, line 7, delete "for purposes of this section".

Moved by: Kraus  
Second by: Rampelberg  
Action: Prevailed by voice vote.

MOTION: DO PASS SB 74 AS AMENDED

Moved by: Kraus  
Second by: Bradford  
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DEFER SB 74 TO THE 41ST LEGISLATIVE DAY

Moved by: Krebs  
Second by: Holien  
Action: Prevailed by roll call vote. (5-2-0-0)

Voting Yes: Holien, Krebs, Rampelberg, Schlekeway, Hunhoff (Jean)

Voting No: Bradford, Kraus

SB173 CONTINUED FROM WEDNESDAY, FEBRUARY 1, 2012

SB 173: provide provisions allowing for the practice of medical-aesthetic services by trained professionals, to provide registration and oversight of such providers, and to provide a penalty therefor.

Proponents: Senator Elizabeth Kraus  
Senator Stanford Adelstein  
Susan Eliason, Self, Rapid City (Handouts: #9)  
Warren Redmond, Self, Aberdeen (Handouts: #10)  
Gene Burrish, Self, Sioux Falls (teleconference)  
Mark East, SD State Medical Association (Handouts: #11, #12, #13)

Opponents: Robert Riter, Indoor Tanning Association  
Zach Neugebauer, Self, Sioux Falls (Handouts: #14, #15, #16)  
Pat Chadeitar, Self, Sioux Falls  
Denny Neugebauer, Self, Sioux Falls  
Jim Hood, SD Retailers Association

MOTION: AMEND THE PENDING AMENDMENT

173jc

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. Terms as used in this chapter mean:

- (1) "Tanning device," equipment that emits electromagnetic radiation having wavelengths in the air between two hundred and four hundred nanometers and that is used for tanning human skin. The term does not include a phototherapy device used by a physician licensed pursuant to chapter 36-4 that emits ultraviolet radiation and is used in treating disease;
- (2) "Tanning facility," a place or business that provides access to a tanning device.

Section 2. Each tanning facility shall:

- (1) Post a warning sign in a place that is readily available to persons entering the establishment. The sign must contain each of the following provisions in clear and legible lettering:

- (a) Danger - Ultraviolet Radiation;
  - (b) Follow the manufacturer's instructions for use of this device;
  - (c) Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure to ultraviolet radiation may cause chronic skin damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer;
  - (d) Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps;
  - (e) Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent injury to the eyes; and
  - (f) Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems or believe you are especially sensitive to sunlight. Women who are pregnant or are taking oral contraceptives who use this product may develop discolored skin;
- (2) Give written notice of each of the following provisions to each customer:
- (a) Failure to wear United States Food and Drug Administration approved protective eyewear may damage the customer's eyes and cause cataracts;
  - (b) Ultraviolet radiation from tanning devices may aggravate the effects of the sun thus, it is not recommended to sunbathe during the twenty-four hours immediately preceding or immediately following the use of a tanning device;
  - (c) Overexposure to a tanning device may cause burns;
  - (d) Repeated exposure to a tanning device may cause premature aging of skin and skin cancer;
  - (e) Abnormal skin sensitivity of burning of the skin while using a tanning device may be caused by the following:
    - (i) Certain foods;
    - (ii) Certain cosmetics;
    - (iii) Certain medications, including tranquilizers, diuretics, antibiotics, high

blood pressure medicines, and birth control pills;

- (f) Any person who takes a medication or drug should consult a physician before using a tanning device;
- (g) Any person with skin that burns easily or never tans should avoid a tanning device; and
- (h) Any person with a family or past medical history of skin cancer should avoid a tanning device.

Section 3. A trained operator shall be present when tanning equipment is operated. The operator must be within hearing distance to allow the customer to easily summon help if necessary or the customer must have access to an intercom or buzzer for the operator. The operator must be able to reach the customer within one minute.

Section 4. Tanning equipment must have a control that enables the user to manually terminate radiation without pulling the electrical plug or coming in contact with the ultraviolet lamp. The tanning facility shall replace tanning device bulbs at the intervals required by the manufacturer or when a bulb burns out or is defective. The bulbs shall be replaced with a kind intended for use in that device or with lamps or filters considered equivalent under the United States Food and Drug Administration regulations at the time the bulb is replaced. The tanning facility shall visibly post the date of each bulb replacement on each tanning device. The tanning facility shall maintain records of tanning device maintenance and shall make all records available to customers on request.

Section 5. The tanning facility shall sanitize all contact surfaces of a tanning device after each use. The facility shall place a visible sign on the tanning device after each cleaning to indicate that it has been properly cleaned. The facility shall sanitize each bathroom and dressing room used by customers each day and shall provide each customer with clean towels and wash cloths.

Section 6. Operators shall limit session duration and frequency to maximums recommended by the manufacturer.

Section 7. No customer under the age of eighteen may use a tanning device at a tanning facility unless the customer's parent or guardian signs a written consent form in the presence of the owner or an employee of the tanning facility prior to the first tanning session. The parent or guardian shall specify the start date and end date for the consent on the form. Each consent form is valid for a maximum of one year. The consent form shall include each of the provisions under section 2 of this Act.

Section 8. The facility shall retain each parent or guardian's consent form for three years, or until a new consent form is signed.

Section 9. A tanning facility may not advertise or distribute promotional materials that claim that using a tanning device is safe or free from risk or that the use of a tanning device will result in medical or health benefits. A tanning facility may only claim or distribute promotional materials that claim that a tanning device is for cosmetic use only.

Section 10. A municipality may adopt an ordinance to regulate tanning facilities as long as the requirements in the ordinance are no less stringent than the requirements provided in this Act."

Moved by: Krebs  
Second by: Holien  
Action: Prevailed by voice vote.

MOTION: DEFER SB 173 TO THE 41ST LEGISLATIVE DAY

Moved by: Krebs  
Second by: Holien  
Action: Prevailed by roll call vote. (6-1-0-0)

Voting Yes: Bradford, Holien, Krebs, Rampelberg, Schlekeway, Hunhoff (Jean)

Voting No: Kraus

RECESS UNTIL AFTER SENATE ADJOURNS ON MONDAY, FEBRUARY 6, 2012

RESUMED MEETING AT 4:00 PM IN ROOM 414

SB 119: revise the Human Relations Act to allow certain discriminatory practices to be investigated by municipalities and counties.

Presented by: Senator Stanford Adelstein  
Proponents: Tiffany Campbell, American Civil Liberties Union of SD (Handouts: #17, #18, #19)  
Mitch Richter, Equality South Dakota  
Karl Kroger, Self, Pierre  
Opponents: Cindy Flakoll, Concerned Women For America  
Travis Benson, Catholic Diocese of Sioux Falls  
Dale Bartscher, Family Heritage Alliance Action Inc.  
Rita Hougum, Eagle Forum

MOTION: AMEND SB 119

119ja

On page 1, line 6, of the printed bill, delete "gender identity".

On page 3, line 10, delete everything after "(10)" .

On page 3, delete lines 7 and 8.

On page 3, line 9, delete "(11)".

On page 3, line 13, delete "~~(11)~~(12)" and insert "(11)".

On page 3, line 19, delete "~~(12)~~(13)" and insert "(12)".

On page 4, line 3, delete "~~(13)~~(14)" and insert "(13)".

On page 4, line 7, delete "~~(14)~~(15)" and insert "(14)".

On page 4, line 10, delete "~~(15)~~(16)" and insert "(15)".

On page 4, line 13, delete "~~(16)~~(17)" and insert "(16)".

On page 4, line 14, delete "(18)" and insert "(17)".

Moved by: Kraus  
Second by: Holien  
Action: Prevailed by voice vote.

**MOTION:** DEFER SB 119 TO THE 41ST LEGISLATIVE DAY

Moved by: Kraus  
Second by: Schlekeway  
Action: Prevailed by roll call vote. (6-1-0-0)

Voting Yes: Holien, Krebs, Rampelberg, Schlekeway, Kraus, Hunhoff (Jean)

Voting No: Bradford

SB 125: require certain day care providers to mail notices of noncompliance.

Presented by: Senator Angie Buhl



Opponents: Randall Steward, Apple Tree Children's Center, Sioux Falls

MOTION: AMEND SB 125

125sc

On page 1, line 7, of the printed bill, after "provider" delete "," and insert "or".

On page 1, line 7, delete ", or a day care center".

On page 1, line 8, delete "is out of compliance with" and insert "has a substantial violation of".

On page 1, line 8, delete "Article".

On page 1, line 9, delete "67:42" and insert "chapters 67:42:03 or 67:42:04 relating to staff to child ratios, qualifications, health, safety, sanitation, or nutrition,".

On page 1, line 9, after "notice" insert ", within thirty days of the determination,".

On page 1, line 12, delete everything after "corrected." .

On page 1, line 13, delete everything before "The" .

On page 2, line 2, after "." insert "The written notice of a determination may be sent by electronic mail.".

Moved by: Rampelberg  
Second by: Schlekeway  
Action: Prevailed by voice vote.

THE CHAIR DEFERRED SB 125 UNTIL WEDNESDAY, FEBRUARY 8, 2012

MOTION: ADJOURN

Moved by: Schlekeway  
Second by: Rampelberg  
Action: Prevailed by voice vote.

Cindy Louder  
Committee Secretary

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Jean M. Hunhoff, Chair